

TITLE 5. Education
Education Audit Appeals Panel

Notice of Proposed Rulemaking
Audits of K-12 Local Education Agencies
Fiscal Year 2007-08

The Education Audit Appeals Panel (EAAP) proposes to adopt the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

Public Hearing:

A public hearing regarding this proposal is not currently scheduled. Not later than 15 days prior to the close of the written comment period, any interested person, or his or her duly authorized representative, may make a written request for a public hearing pursuant to Government Code section 11346.8, and a public hearing will be held. Requests for a public hearing should be addressed to the Regulations Coordinator.

Written Comment Period:

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Regulations Coordinator. The written comment period closes at **5:00 p.m. on June 25, 2007**. EAAP will consider only written comments received by the Regulations Coordinator by that time. Written comments for EAAP's consideration should be directed to:

Chris Pentoney, Regulations Coordinator
Education Audit Appeals Panel
770 L Street, Suite 1100
Sacramento, CA 95814
Fax: (916) 445-7626
e-mail: cpentoney@eaap.ca.gov

Authority and Reference:

Authority cited: Section 14502.1, Education Code.

Reference: Sections 8482.3, 14501, 14502.1, 14503, 41020, 41372, 47634.2, and 99237 of the Education Code.

Informative Digest/Policy Statement Overview:

The regulations in Title 5 of the California Code of Regulations, Division 1.5, Chapter 3, constitute the audit guide required by Education Code sections 14503 and 41020. The audit guide provides guidance, through definitions of terms and specification of procedures, to auditors in the conduct of statutorily required financial and compliance audits of local education agencies. EAAP proposes amendments and additions to these regulations for the 2007-08 fiscal year that derive from proposed content submitted to EAAP by the Controller pursuant to Education Code Section 14502.1. The affected regulation sections are 19816, 19816.1, 19828.1, 19830, 19837, and 19854, and new sections 19828.2, 19829.5, 19830.1, 19837.1, 19838, and 19846.

Article 2, Audit Reports, includes definitions of terms in Section 19816, which is amended to specify the numbers of audit procedures for fiscal year 2007-08, to add a new finding code for resolution of findings related to the proposed new section regarding classroom teacher salaries (described below), to provide for more specificity with regard to the schedule of Average Daily Attendance reported for charter schools, to omit the procedures related to alternative pension plans, to delete reference to a repealed statute, and to make minor corrections in grammar and style. Section 19816.1 specifies which sections of the audit guide are applicable to each audit year; it is amended to list those sections applicable to audits of fiscal year 2007-08.

Article 3, State Compliance Requirements: Local Education Agencies Other Than Charter Schools, Article 3.1, State Compliance Requirements: School Districts and Charter Schools, and Article 4, State Compliance Procedures: Charter Schools list the particular state-funded education programs that are required to be audited and set forth procedures that direct auditors to relevant documents and reports and guide auditors in steps to determine whether an auditee was in compliance with the relevant statutory and regulatory requirements during the period audited.

In Article 3, three existing sections are being amended to add or modify an introductory sentence limiting their applicability to certain audit years, and three successor sections are being added to incorporate changes applicable to audits of fiscal year 2007-08 and thereafter:

- Section 19828.1 is limited to audits of fiscal years 2004-05 through 2006-07. Successor Section 19828.2 adds the words “in the resolution” to subparagraph (b)(5) for fiscal year 2007-08 and future years (Stats. of 2006, Ch. 704 (AB 607), § 8).
- Section 19830 is limited to audits of fiscal years 2003-04 and 2004-05. Successor Section 19830.1 is applicable to audits of fiscal year 2005-06 and future years—deleting the ‘dead’ cross reference to Education Code Section 22714.5, which was repealed by its own terms effective January 1, 2005 (Stats. 2004, Ch. 935 (AB 1852), § 2).
- Section 19837 is limited to audits of fiscal years 2004-05 through 2006-07. Successor Section 19837.1 is amended for fiscal year 2007-08 and future years to conform with the provisions of Education Code Section 17002(d), as amended effective January 1, 2007 (Stats. 2006, Ch. 704 (AB 607), § 4).

New Section 19829.5, Classroom Teacher Salaries, directs auditors to check for compliance with Education Code Section 41372 regarding minimum expenditures as a percentage of a district’s current expense of education.

New Section 19838, Mathematics and Reading Professional Development, directs auditors to check for compliance with certain provisions of Education Code Section 99237, as amended by Statutes of 2006, Chapter 524 (SB 472), § 6).

Article 3.1, new Section 19846, After School Education and Safety Program, directs auditors to check local education agencies, including participating charter schools, for compliance with elements of the after school component, the before school component, and general requirements (matching funds, expenditure limitations).

Article 4, Section 19854, Annual Instructional Minutes – Classroom Based, is amended to delete the cross reference to Education Code Section 46201(a)(3) that was deleted from Education Code Section 47612.5(a)(1). Section 47612.5(a)(1) now specifies directly the minimum annual number of minutes of instruction that must be offered by grade levels. (Statutes of 2005, Chapter 543 (AB 1610), § 5.)

Disclosures Regarding the Proposed Action:

- Mandate on local agencies and school districts: None
- Cost or savings to any state agency: None
- Cost to any local agency or school district which must be reimbursed in accordance with Government Code section 17561: None
- Other non-discretionary cost or savings imposed upon local educational agencies: None
- Cost or savings in federal funding to the state: None
- Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.
- Cost impact on a representative private person or business: EAAP is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Adoption of these regulations will not:
 - (1) create or eliminate jobs within California;
 - (2) create new businesses or eliminate existing businesses within California; or
 - (3) affect the expansion of businesses currently doing business within California.
- Significant affect on housing costs: EAAP has made an initial determination that the proposed regulatory action would not affect housing costs.
- Effect on small businesses: The proposed regulations will have no effect on small businesses because they do not materially alter the requirements for LEA audits.

Consideration of Alternatives:

In accordance with Government Code Section 11346.5(a)(13), EAAP must determine that no reasonable alternative considered by EAAP or that has otherwise been identified and brought to the attention of EAAP would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

EAAP invites interested persons to present statements or arguments regarding alternatives to the proposed regulations at the above-mentioned hearing or during the written comment period.

Contact Persons:

Inquiries concerning the substance of the proposed action, requests for a copy of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, and other technical information upon which the rulemaking is based, and questions on the proposed administrative action may be directed to Chris Pentoney, Regulations Coordinator, at (916) 445-7745 or by e-mail: cpentoney@eaap.ca.gov. The back-up contact person for general inquiries is Carolyn Pirillo, at (916) 445-7745.

Availability of Initial Statement of Reasons and Text of Proposed Regulations:

The Regulations Coordinator will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at her office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. A copy may be obtained by contacting the Regulations Coordinator at the above address.

Availability of Changed or Modified Text:

Following the comment period, and a hearing, if requested, and consideration of all timely and relevant comments received, EAAP may adopt the proposed regulations substantially as described in this notice. If EAAP makes modifications that are sufficiently related to the originally proposed text, the modified text (with changes clearly indicated) will be available to the public for at least 15 days before EAAP adopts the regulations as revised. Requests for copies of any modified regulations should be sent to the attention of the Regulations Coordinator at the address stated above. The Regulations Coordinator will accept written comments on the modified regulations for 15 days after the date on which they are made available.

Availability of the Final Statement of Reasons:

Upon completion of the Final Statement of Reasons, a copy may be obtained by contacting the Regulations Coordinator at the above address.

Availability of Documents on the Internet:

Copies of the Notice of Proposed Rulemaking, Initial Statement of Reasons, text of the regulations in underline and strikeout, and Final Statement of Reasons will be accessible, through the Education Audit Appeals Panel website: www.eaap.ca.gov